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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/110,135 07/06/98 MOURA

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EXAMINER

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ART UNIT

PAPER NUMBER

2661

DATE MAILED:

03/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/110,135	MOURA ET AL.
	Examiner Shick Hom	Art Unit 2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 July 1998, and 30 December 1998.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-54 is/are pending in the application.

4a) Of the above claim(s) 1-21 and 23-25 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 22 and 26-54 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)      18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)      19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      20) Other: \_\_\_\_\_

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**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities: in page 2 line 5 of the pre-amend. after the title insert ---and now U.S. Patent No. 6,005,850---.

Appropriate correction is required.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Objections***

3. Claims 40-47 and 49 are objected to because of the following informalities: In claim 40-47 and 49 line 1 delete "A communication system" and insert ---The communication system." Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. Claims 22, 26-31, 43-47, and 50-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to

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particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22 line 9 and claim 32 line 5 which recite "the shared channel" is not clear as to whether it is reciting ---said shared first channel--- of claim 22 line 2 and claim 32 lines 1-2, respectively. In claim 22 line 10 and claim 32 lines 6-7 which recite "the internetwork address" lacks clear antecedent basis because no internetwork address have been previously recited in the claims and therefore the limitation is not clearly understood. In claim 22 line 13 and claim 32 line 14 which recite "an internetwork header" is not clear as to whether it is reciting ---said internetwork header--- of claim 22 lines 9-10 and claim 32 line 6, respectively. In claim 22 line 15 which recite "a message" is not clear as to whether it is related to the messages of claim 22 line 5. In claim 22 line 18 which recite "a message" is not clear as to whether it is reciting ---said message--- of claim 22 line 15. In claim 26 line 2, claim 30 lines 2-3, and claim 31 line 2 which recite "a second plurality of packets" is not clear as to whether it is reciting ---said second plurality of packets--- of claim 22 line 11. In claim 30 line 4 which recite "the signal" lacks clear antecedent basis. In claim 31 line 2 which recite "the

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cable network" lacks clear antecedent basis. In claim 43 line 4 which recite "the upstream channel" is not clear as to whether it is reciting ---one of said upstream channels--- of claim 39 line 5. In claim 44 lines 4-5 which recite "the other channel" and "the available channels" lack clear antecedent basis. In claim 46 line 2 which recite "the available channels" lacks clear antecedent basis. In claim 46 line 3 which recite "a remote interface" is not clear as to whether it is reciting ---said remote interface--- of claim 39 line 6. In claim 46 line 4 which recite "the other channel" lacks clear antecedent basis. In claim 47 line 2 which recite "an upstream channel" is not clear as to whether it is reciting ---said upstream channels--- of claim 39 line 5. In claims 50-52 line 1 which recite "A device" is not clear as to whether it is reciting ---The remote devices--- of claim 48 line 2 or what. In claim 51 line 1 which recite "the switching device" is not clear as to whether it is reciting ---said switcher--- of claim 48 line 13. In claim 52 line 1 which recite "the quality characteristics" lacks clear antecedent basis. In claim 53 line 8 which recite "a lower speed upstream channel" is not clear as to whether it is reciting ---one of said upstream channels--- as in claim 53 lines 5-6.

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Claims 27-29 and 33-38 are rejected under 35 U.S.C. 112, second paragraph because they depend from rejected claims 22 and 32, respectively.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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6. Claims 22, 26-41, 43-44, 47-51, and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jandrell in view of Carr et al.

Jandrell discloses nearly all the subject matter now claimed. Note col. 8 lines 33-48 which recite communication between a multitude of service-clients and the operator-client, who want to communicate with the service-clients and col. 9 lines 22-33 which recite the transponder responding to the control signals, which are periodically transmitted by any one of the array of base station transceiver stations whereby once synchronized with the base station network, the transponders are polled for communications or generate a request for service in response to a subscriber clearly anticipate the method of operating a client node including the steps of sending periodic operability indication messages on a first channel, receiving the message, and sending periodic operability indication messages on another channel, the other channel being determined by the message received as in claims 22, 32, 53, 54 and the wireless broadcast network as in claims 28, 29, 35, 36. Col. 18 lines 44-57 which recite the telephonic implementation of the communication channel clearly reads on the second channels includes a telephone network as in claims 26, 33, 37. Col. 23

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lines 31-41 which recite the message includes a data header portion and a response packet portion whereby the data header packet includes the transponder address or identification clearly anticipate the internetwork header with the internetwork address as in claims 22 and 32. Col. 3 lines 1-8 which recite the satellite-base mobile data communications system clearly anticipate the satellite broadcast network as in claim 30.

Jandrell did not teach the asymmetric communication whereby the second channels, i.e. the upstream channels, transmit at a speed lower than the first channel, i.e. the downstream channel as in claims 22, 32, 39, 48, 53, and 54. Jandrell did not teach the use of the cable network as in claims 27, 31, 34, 38, and 43. Jandrell did not teach the channel switcher that switches channels transparently to the remote device as in claims 39-40, 44, 48, 53, and 54.

Carr et al. teach that it is known to provide a method for integrating downstream data transfer over a cable television channel with upstream data whereby the customer premises equipment receives high-Speed downstream data over a cable television system and transmits Lower Speed Upstream signaling On a separate channel as set forth at col. 1 lines 8-21 in the field of digital and multiplex communications for the purpose of using high bandwidth channels available on existing cable television

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systems to serve personal computer users which clearly anticipate the asymmetric communication whereby the second channels, i.e. the upstream channels, transmit at a speed lower than the first channel, i.e. the downstream channel and the cable network. Col. 1 line 60 to col. 2 line 7 which recite the systems include a director implemented in control processor which maintains the bidirectional low bandwidth channel and switches to the high bandwidth channel in response to a command clearly anticipate the control system including the channel switcher as in claims 39, 48, 53, and 54.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the asymmetric communication whereby the second channels, i.e. the upstream channels, transmit at a speed lower than the first channel, i.e. the downstream channel, the use of the cable network, and the channel switcher as taught by Carr et al. to the system of Jandrell because Carr et al. teach the desirable advantage of using the high bandwidth channels available on existing cable television systems to serve personal computer users and feature of said using the high bandwidth channels available on existing cable television systems to serve personal computer being desirable to achieve efficient system operation in Jandrell.

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***Allowable Subject Matter***

7. Claims 42, 45, 46, and 52 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Moura et al. in U.S. Patent No. 6005850 disclose a hybrid access system with remote device monitoring scheme.

Moura et al. in U.S. Patent No. 5818845 disclose a hybrid access system having channel allocation and prioritized polling schemes.

Moura et al. in U.S. Patent No. 5859852 disclose a hybrid access system with automated client-side configuration.

Moura et al. in U.S. Patent No. 5946322 disclose a hybrid access system utilizing credit/done polling protocols.

Moura et al. in U.S. Patent No. 5828655 disclose a hybrid access system with quality-based channel switching.

9. Any response to this action should be mailed to:

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications  
intended for entry)

**Or:**

(703) 308-5403, (for informal or draft  
communications, please label "PROPOSED" or  
"DRAFT")

Hand-delivered responses should be brought to Crystal  
Park II, 2021 Crystal Drive, Arlington, VA., Sixth  
Floor (Receptionist (703) 305-4700).

Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to Shick Hom  
whose telephone number is (703) 305-4742.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4750.



DANG TON  
PRIMARY EXAMINER

SH

March 22, 2001